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RUEHCV/AMEMBASSY CARACAS 1348
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RUEHMN/AMEMBASSY MONTEVIDEO 3596
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RUEHSG/AMEMBASSY SANTIAGO 8504
RHMFISS/HQ USSOUTHCOM MIAMI FL
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C O N F I D E N T I A L SECTION 01 OF 02 LA PAZ 000584

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SUBJECT: CONSTITUENT ASSEMBLY LAW PASSED

Classified By: Amb. David N. Greenlee for reasons 1.4 (b) and (d).1.

11. (C) Summary: Late March 4, Congress passed the enabling law for the Constituent Assembly (CA) as well as parallel legislation for a legally binding referendum on autonomy to take place on July 2. Morales, claiming victory for meeting the March 4 deadline to approve the CA legislation, celebrated the opportunity to "begin the democratic and cultural revolution." A closer look, however, reveals that the opposition effectively bargained for important modifications to the MAS proposal, including representation of minority political parties in the CA, a guarantee that Congress will continue to function until the new constitution is promulgated, a post-CA referendum to approve its results, political space for indigenous participation, and the legally binding autonomy referendum to be held concurrently with the July 2 CA election. At least at this early stage, the MAS demonstrated a tactical ability to compromise and negotiate with the opposition in Congress. Again, Bolivia will enter into another campaign season--some have called it Round Two--to prepare for the July 2 elections, which many Bolivians consider to be even more important than the recent December elections. End Summary.

12. (C) Late March 4, Congress unanimously approved the enabling law for the Constituent Assembly (CA). The law provides that the CA will take place in Sucre and last six months to one year. There will be 255 representatives total, 210 from the 70 electoral districts across the country (3 representatives per district), plus 45 representatives from the nine departments (five per department). Of the three representatives per district, one must be female; of the five per department, two must be female.

13. (C) On the same day, Congress also passed legislation for a legally binding referendum on autonomy to take place on July 2, the same date CA representatives will be elected. The referendum will offer a yes/no response to the following question:

Do you agree that, within the framework of national unity, the Constituent Assembly should be given a binding mandate to establish a regime of departmental autonomy, applicable immediately upon the ratification of the new political

constitution with the departments where such a referendum won a majority of the votes, so that their departmental authorities will be elected directly by the citizens and received from the State executive competencies, administrative regulating powers, and the financial and economic resources to which the department may be entitled by the new Constitution and the laws?

Only those departments in which the referendum is approved by a simple majority would be entitled to autonomy as described in the referendum upon promulgation of the new Constitution.

¶4. (C) Morales is claiming victory for meeting the March 4 deadline and driving the MAS bill through Congress, boasting "mission accomplished" in a March 6 speech in El Alto. A closer look, however, reveals that the opposition effectively bargained for important modifications in the MAS proposal, as follows:

--Representation of minority political parties in the CA. Under the approved law, for the representatives elected by district, the party winning each district will gain two representatives; the third representative per district will go to the second place political party. For the department-wide contests, the party winning the most votes will gain two representatives, and the second, third and fourth place finishers will win one representative each.

--Guarantee that Congress will remain in session. The law also provides that Congress will continue to function under the rules of the current constitution until the new constitution is promulgated, as will the other branches of government.

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--Post-CA referendum. The new law requires that a referendum be held within 120 days of the closing of the CA to approve its results. A simple majority is needed to approve the new constitution.

--Political space for indigenous participation. In addition to political parties and citizens groups, indigenous organizations may nominate candidates for the CA by merely registering with the National Electoral Court 90 days before July 2.

--Legally binding autonomy referendum (see paragraph 3 above).

¶5. (C) Comment: All in all, the final law shows a measure of political balance and an opening to counter expected MAS overreaching in the CA. At the same time, however, MAS tactical concessions at this early stage do not necessarily signal strategic moderation. Morales delivered what he promised: enabling legislation--albeit imperfect from the MAS perspective--that keeps the CA on its timetable and sending Bolivia, once again, into another campaign season. End comment.
GREENLEE